THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13485 of 2006

04-07-2006

Between:-

Thonamnadu Mani Achari

Petitioner

And

The Commissioner of Endowments, Boggulakunta, Hyderabad and three others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13485 of 2006

Oral order:

The petitioner was granted a lease of open land in an extent of 9' x 7' belonging to Sri Mallikarjuna Swamy Kamashithai Temple, Zonnawada, Buchireddipalem mandal, Nellore district by the proceedings of the 1st respondent dated 21-12-2002 for a period of one year i.e., 01-03-2002 to 28-02-2003. By a further proceeding issued under the orders of the 1st respondent dated 08-05-2003, the lease period was renewed for a further three years i.e., 28-02-2003 to 27-02-2006. Admittedly, as on today, the petitioner does not have a lease in respect of the property in question.

The petitioner states to have made a representation to the 1st respondent for further extension

of the lease. The 1st respondent has neither responded nor exercised discretion by passing a formal order of extension of lease. The petitioner however states that the 4th respondent's leasehold right to land belonging to the 2nd respondent-Devasthanam has also expired sometime in the year 2005, but is continuing because of the indifference of the respondent Nos. 1 to 3 in evicting the 4th respondent and therefore the petitioner should also be the beneficiary of such inaction, incompetence and indifference to law by the respondent Nos. 1 to 3. This claim is projected on the ground of violation of Article 14 of the Constitution of India. This claim is stated to be rejected.

The incompetence or abdication of statutory responsibility by a statutory functionary is not a precedent that law respects or the court recognizes or follows. If the Commissioner of Endowment or any other subordinate endowment authority either transgresses the law or abdicates the statutory responsibility of safeguarding endowment institution properties, the Commissioner or such other officer of the Endowment Department may be liable to be proceeded against either by the Government or by appropriate judicial orders at the instance of any affected or interested individual, interested in the proper management of endowment properties. But such a

circumstance would not constitute a legal precedent for extension of similar benefits to any other person similarly situate.

In extremis, the learned counsel for the petitioner contends that the petitioner shall not be evicted except in accordance with the due procedure of law and under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987.

Accordingly, while rejecting the main contention and relief sought in the writ petition, the respondent Nos. 1 and 2 are directed not to evict the petitioner, except in accordance with the procedure ordained by law. If the petitioner declines to vacate the premises on his own volition despite his lease period having come to an end, the respondent Nos. 1 and 2 are entitled to take such conduct of the petitioner in considering whether he should be granted a lease in future. The writ petition is disposed of as above. No costs.

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GODA RAGHURAM, J

Dated:04-07-2006
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